

APPEAL NO. 042177
FILED OCTOBER 18, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 27, 2004. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) had disability for the period beginning on September 3, 2003, and continuing through March 30, 2004. The appellant (carrier) appealed, asserting that the disability determination was against the great weight of the evidence. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

The disability issue presented a question of fact for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). It is for the hearing officer to resolve the inconsistencies and conflicts in the evidence and to decide what facts the evidence has established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The credibility and weight to be given to the work capacity testing performed on October 29, 2003, was a matter for the hearing officer to resolve. Nothing in our review of the record reveals that the hearing officer's disability determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Edward Vilano
Appeals Judge